

TITLE 16. CALIFORNIA BOARD OF BEHAVIORAL SCIENCES

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:

Advertising

NOTICE IS HEREBY GIVEN that the California Board of Behavioral Sciences (Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under **Contact Person** in this Notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under **Contact Person** in this Notice, must be **received by the Board at its office by Monday, April 28, 2025**, or must be received by the Board at the hearing, should one be scheduled.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 137, 4980.60 and 4990.20 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC Sections 125.9, 137, 651, 4980.03, 4980.09, 4980.44, 4982, 4989.49, 4989.54, 4992.2, 4992.3, 4999.12, 4999.12.5 and 4999.90, the Board is considering changes to Division 18 of Title 16 of the California Code of Regulations (16 CCR) as follows:

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The Board of Behavioral Sciences (Board) licenses and regulates Licensed Marriage and Family Therapists (LMFTs) (Business and Professions Code (BPC) sections 4980 et seq.), Licensed Educational Psychologists (LEPs) (BPC sections 4989.10 et seq.), Licensed Clinical Social Workers (LCSWs) (BPC sections 4991 et seq.), and Licensed Professional Clinical Counselors (LPCCs) (BPC sections 4999.10 et seq.).

The Board also registers and regulates individuals gaining supervised experience toward meeting the requirements for licensure. This includes registered Associate Marriage and Family Therapists (AMFTs), Associate Professional Clinical Counselors (APCCs) and Associate Clinical Social Workers (ASWs) (aka “registrant”).

The Board is responsible for licensing and discipline of the above professionals and enforcement of Chapters 13, 13.5, 13.7, 14 and 16 of Division 2 of the BPC which regulates the above professions as set forth in BPC sections 4990.2, 4990.12, and 4990.18. BPC section 4990.16 mandates that the protection of the public shall be the highest priority of the Board in exercising its licensing, regulatory, and disciplinary functions.

A statutory definition of “advertise” for each profession regulated by the Board is specified in BPC section 4980.03(e) (marriage and family therapists), BPC section 4989.49 (licensed educational psychologists), BPC section 4992.2 (licensed clinical social workers), and BPC section 4999.12(j) (licensed professional clinical counselors). These sections define “advertise” as including but not limited to any public communication as defined in BPC section 651, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. (Note that BPC § 4999.12(j) additionally includes “business solicitations communicated by radio or television broadcasting”.) BPC section 651 prohibits false or misleading advertising and contains a definition of a false, fraudulent, misleading, or deceptive statement or claim.

Existing 16 CCR section 1811 sets forth requirements for information that must be specifically included in any advertising of services by the Board’s licensees and registrants in compliance with the Board’s statutory requirements, including their full name as filed with the Board, the complete title of the license or registration held or an acceptable abbreviation as specified, and the license or registration number. It also requires registrants to include their name of their employer or, if not employed, the entity for which they volunteer.

Aside from non-substantive changes for capitalization, spelling, grammar, renumbering of paragraphs within this section, replacing gendered pronouns with gender-neutral language, and amending legal citations in the Reference sections of the regulations, the proposed amendments to 16 CCR section 1811 would update the Board’s advertising regulations and would include the following specific changes:

Subsections (a), (a)(1) and (a)(2)(F): The amendments would repeal references to MFT referral services as the Board no longer regulates MFT referral services due to the repeal of the Board's authorizing statute per Senate Bill 1491 (Chapter 703, Statutes of 2018).

Subsection (b): The amendments would require all registrants to include that they are supervised by a licensed person in any advertisement and would retain the existing requirement for disclosing the name of their employer or the entity for which they volunteer.

Subsection (g): The proposed amendment allows a licensee or registrant to use a former legal name or nickname if the licensee or registrant also includes in the advertisement their full name as filed with the Board. If a nickname is used, it also shall not be false, fraudulent, misleading or deceptive as specified in BPC section 651.

ANTICIPATED BENEFITS OF PROPOSAL

The objectives of the amendments and anticipated benefits in this regulatory proposal are to provide for clarity and currency in the advertising regulations, increase public protection by requiring all registrants to include that they are supervised by a licensed professional in advertising, and resolve questions about the use of a former legal name or nickname in advertising while still maintaining public protection.

EVALUATION OF CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations on these topics and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THIS PROPOSED ACTION

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The proposed regulations do not result in a fiscal impact to the state. Adopting this regulation updates the requirements for information included in an advertisement for licensees or registrants regulated by the Board who advertise their services.

The Board does not anticipate additional workload or costs from the proposed regulations. Any workload or costs of implementation are a result of current law. The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Mandate Imposed on Local Agencies or School Districts: None.

Significant Effect on Housing Costs: None.

BUSINESS IMPACT ESTIMATES

The Board has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This initial determination is based upon the following facts:

The Board does not believe this regulation will have a significant adverse economic impact on businesses. Adopting this regulation simply updates the requirements for information included in an advertisement for licensees or registrants regulated by the Board who advertise their services and individuals in compliance with advertising statutes and regulations will not be affected by the proposed regulations. Permitting the use of a former legal name or nickname in advertising will not affect businesses because licensees or registrants will still be required to provide the full name of the licensee or registrant as filed with the Board along with the alias (nickname or former name) and not make any false, fraudulent, misleading, or deceptive statements, all of which are requirements of existing law and regulations. The rulemaking file includes the facts, documents, and other evidence which supports this determination.

Cost Impact on Representative Private Person or Business

The Board is not aware of any cost impacts that are representative private person or business would necessarily incur in reasonable compliance with the proposed action for the reasons set forth above in the “Business Impact Estimates” section.

RESULTS OF ECONOMIC IMPACT ASSESSMENT / ANALYSIS

Impact on Jobs / Businesses

The Board has determined that the proposed regulatory action would not have a significant statewide adverse economic on the following:

- 1) The creation or elimination of jobs within the state,
- 2) The creation of new businesses or the elimination of existing businesses within the state, or,
- 3) The expansion of businesses currently doing business within the state.

This proposal would not have any of the above-referenced impacts as explained in the “Business Impact Estimates” section of this notice.

Benefits of the Regulation

This regulatory proposal affects the health and welfare of California residents because the proposed regulation ensures that all registrants state that they are supervised by a licensed person in any advertisements, thereby avoiding the impression that they are an independent practitioner and providing the ability for a current or potential client to contact the current supervisor with any concerns. The objectives of the amendments and anticipated benefits in this regulatory proposal are also to provide for clarity and currency in the advertising regulations and resolve questions about the use of a former legal name or nickname in advertising while still maintaining public protection.

This regulatory proposal will have no impact on worker safety because the proposal does not address worker safety. This regulatory proposal will have no impact on the California environment as the proposal is not related to the environment.

Business Reporting Requirements

This proposed regulation does not require businesses to file a report with the Board.

Effect on Small Business

While the Board does not have, nor does it maintain, data to determine if any of its licensees are a “small business,” as defined in Government Code section 11342.610, the Board has made an initial determination that the proposed regulatory action will have no significant impact on small businesses as it simply updates the requirements for information included in an advertisement for licensees or registrants regulated by the Board who advertise their services and individuals in compliance with advertising statutes and regulations will not be affected by the proposed regulations. Permitting the use of a former legal name or nickname in advertising will not affect businesses because licensees or registrants will still be required to provide the full name of the licensee or registrant as filed with the Board along with the alias (nickname or former name) and not make any false, fraudulent, misleading, or deceptive statements, all of which are requirements of existing law and regulations.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed; would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1625 North Market Blvd, Suite S200, Sacramento CA 95834 during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record of for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the Contact Persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in this Notice under Contact Person listed below, or by accessing the Board's website at https://www.bbs.ca.gov/about/law_reg.html.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the Contact Person named below.

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to the Contact Persons named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Christy Berger
Address: Board of Behavioral Sciences
1625 North Market Blvd, Suite S200
Sacramento CA 95834
Telephone: 916-574-7995
Fax: 916-574-8625
Email: BBS.Rulemaking@dca.ca.gov

The backup contact person is:

Name: Rosanne Helms
Address: Board of Behavioral Sciences
1625 North Market Blvd, Suite S200
Sacramento CA 95834
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Fax: 916-574-8625
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AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Board's website at: https://www.bbs.ca.gov/about/law_reg.html.